

1/22/15 PC Item 4

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January 14, 2015

Via U.S. Mail

James A. Bergman, Director
San Luis Obispo County Planning and Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408

Re: County File No. LRP2014-00007/Hearing Scheduled January 22, 2015

Director Bergman,

I am submitting this letter on behalf of my client, David Sansone, in response to County Planning Staff's recommended changes to the Land Use Ordinance, Coastal Land Use Ordinance and Table "O" of the Coastal Framework for Planning to remove mini-warehouse storage facilities as an allowable use in the Residential-Multi-Family ("RMF") land use category.

As you are no doubt aware, Mr. Sansone has been attempting to process an application for a mini-warehouse storage facility for his RMF zoned property in San Simeon. He has owned the property for over thirty years but has not been able to do anything with the property due to the water shortage and resulting twenty-eight year building moratorium in San Simeon. The water shortage and building moratorium likely will continue for many years. The only viable economic use that he can make of the property is a mini-warehouse storage facility. With this in mind, Mr. Sansone started the application process close to a year ago. The application process has been delayed as well as frustrating on many levels. Now Staff is apparently capitalizing on those delays by proposing to eliminate mini-warehouse storage units as an allowable use in the RMF land use category.

With respect to the San Simeon planning area and surrounding planning areas (Cambria, Harmony and Cayucos), Staff's recommended change is not supported by sufficient facts. Indeed the evidence suggests that the recommended change will make a bad situation much worse. In support of this conclusion are the following facts:

- A. Zoning in San Simeon with the recommended change would preclude any mini-warehouse storage units from being built. There presently are only three land use categories in San Simeon and they are as follows:

1. PF (Public Facilities)-This zoning designation is fully developed with the District office and sewage treatment facility.
2. CR (Commercial)-This zoning is located along the highway frontage road which clearly is not suitable for mini-warehouse storage facilities.
3. RMF-This zoning category covers the rest of the San Simeon area.

B. Presently there are no mini-warehouse storage units in the San Simeon area and Harmony areas and the units located in Cambria are full with an extensive waiting list. Since so much of San Simeon is designated RMF with virtually the rest of the zoning designated commercial it is not only logical for a mini-warehouse storage facility to be an allowable use in the RMF zone but required to service the needs of the various businesses and extensive multifamily housing where on-site storage is extremely limited. The figures we were able to gather suggest the following:

1. San Simeon has a population of 462 but, more importantly, all of the population lives in RMF zoning. There are no mini-warehouse storage units in this area. Realistically the closest mini-warehouse storage facility is Morro Bay since the limited units available in Cambria and Cayucos are full and have waiting lists. San Simeon residents will have to drive almost thirty miles to find storage facilities.
2. Cambria has a population of 6,032 and approximately 193 multifamily housing units. The only storage units available in Cambria are full with a waiting list.
3. Cayucos, Cambria and San Simeon combined have approximately 1542 businesses. These businesses also have a need for storage facilities which do not require having to drive 20 to 30 miles.

We understand both Staff and the Board of Supervisors wanting to promote affordable housing options. Mr. Sansone believes that such an objective is commendable and he would like nothing better than to develop his property with affordable multi-family units. This, however, is not possible and will not be possible for many years into the future in the San Simeon area. Even if it were possible to develop multi-family housing in the San Simeon area, by doing so you also create a need for storage which you will be eliminating with this proposed change. Mr. Sansone recognizes that mini-warehouse storage is an interim use. He has and will agree to remove any storage units within two years of sufficient water service becoming available to his property to build multi-family units.

James A. Bergman
January 13, 2015
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Based on the foregoing we request that Staff along with the San Luis Obispo Planning Commission and Board of Supervisors provide for an exemption from the proposed ordinance for parcels APN 013-071-23, APN 013-071-024 and APN 013-071-025 which are located in the North Coast Planning area that includes San Simeon.

Thank you for your time and consideration of our request.

Sincerely yours,
GLICK & HAUPT LLP



Fred K. Glick

FKG/aw

cc: Client (*via e-mail only*)
Gary Swauger (*via e-mail only*)
Chris Macek, Department Secretary
San Luis Obispo Board Of Supervisors (*Frank Mecham, Bruce Gibson, Adam Hill, Caren Ray, Debbie Arnold*)
San Luis Obispo Planning Commission (*Jim Irving, Ken Topping, Eric Meyer, Tim Murphy, Don Campbell*)

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San Luis Obispo County Planning and Building Department
County Government Center, Room 200
San Luis Obispo, CA 93408
Attention: Jay Johnson

January 14, 2015

**RE: LRP2014-00007 Amendment to Co. Land Use Ordinance
-Title 22/23 and Table "O"**

Dear Mr. Johnson,

The above referenced matter will be considered at the regular meeting of the Planning Commission on January 22, 2015. Please be aware, that I oppose the amendment as proposed. The amendment is overly broad and has unintended consequences for a certain class of properties and will render them legal non-conforming.

I support retaining the existing Special Use status for development of mini-storage facilities in the Residential Multiple Family (RMF) category. Additional requirements could be established to better guide development of individual parcels. The required level of processing for mini-storage in the RMF category could also be elevated to a Development Plan requiring Planning Commission approval.

Staff Proposed Amendment

Amendments to Remove Mini-Storage Facilities as an Allowable Use in the Residential Multi-Family Land Use Category (1) The following proposed amendments re in response to a program from the 2009 - 2014 Housing Element. Program HE1.G, which outlined several potential revisions to residential development standards, included the following statement in its description: This program would also include the prohibition of mini-storages in the Residential Multi – Family land use category.

In June 2014, the Board of Supervisors adopted the 2014 - 2019 Housing Element update, and removed the above statement from the program (now Program HE1.F) in anticipation of these proposed amendments occurring. The amendments shown on the following pages would be required to prohibit new mini-storage facilities in the Residential Multi - Family l and use category. For the Inland portion of the County that would include amending Table 2 – 2 (the table of allowable uses), and deleting Section 22.30.640 of the Land Use Ordinance, Title 22 of the County Code. For the Coastal Zone portion of the County that would include amending Table O (the Coastal Zone table of allowable uses) of Coastal Zone Land Use Element –

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Framework for Planning, and amending Section 23.08.402 – Warehousing of the Coastal Zone Land Use Ordinance, Title 23 of the County Code

Mini – storage facilities would remain allowable the Commercial Service, Industrial and Public Facilities land use categories. Existing, legally established, mini – storage facilities in the RMF category would continue to operate as legal non - conforming uses.

I respectfully submit the proposed amendment could, if modified, address the goals of the Housing Element and not be as disruptive as it may be in its present form.

Current Special Use

23.08.402 - Warehousing:

The standards of this section apply to warehouse uses in the Agriculture and, Rural Lands and Residential Multi-Family land use categories.

a. Limitation on use.

(1) Agriculture and Rural Lands. Warehousing uses in the Agriculture and Rural Lands categories are is limited to storage facilities that support approved agricultural production or processing operations conducted on the same site.

(2) Residential Multi-Family. Warehousing in the Residential Multi-Family land use category is limited to mini-storage facilities.

b. Permit requirement.

Minor Use Permit approval when located in the Residential Multi-Family category, provided that the applicable review authority shall first find that the proposed storage facilities are designed primarily to serve the needs of apartment residents in the same land use category.

Development standards - Residential Multi-Family category.

Warehouse facilities in the Residential Multi-Family land use category are subject to the same site design and site development standards in Chapters 23.04 and 23.05 of this Title as Multi-Family Dwellings.

No Prohibition-Do not modify Table “O” to prohibit mini-storage uses

There are certain situations where the development of an existing RMF site with residential uses could conflict with surrounding land uses.

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Please consider the following two examples of neighborhood incompatibility.

1. Tract 2424- proposed as a multi-family project on RMF property in Oceano. Ag Commissioners office recommended against siting of residential uses adjacent to existing agriculture. Concerns about compatibility included noise, dust and pesticide drift. The project was approved with mini-storage allowed between the ag uses and some new residential.
2. DRC2014-00032 – a pending mini-storage project on RMF property in Los Osos. This parcel is adjacent to the Los Osos Community Services District corporation yard with uses including, wells, water blending, nitrogen removal and a backup power generator for the Los Osos Wastewater Project.

The question of compatibility should be considered on a case-by-case basis through the County development review process. Exceptions allowing mini-storage development in an RMF category should be provided where it can be demonstrated potential incompatibility may result from new residential development.

Advisory Councils

I am aware of two advisory council's that considered the subject amendment referral, the Oceano Advisory Council considered the item on November 17, 2014 and Los Osos Community Advisory Council on December 18, 2014. Each council maintains significant concerns about the amendment proposal.

Availability of Land

In many cases, RMF projects are not feasible due to reasons beyond the question of land availability. Water and sewer service are key limiting factors in many cases. In Los Osos for example, there is a significant amount of unimproved RMF property, however due to water resource limitations, it is not possible to construct new residential development for the foreseeable future. Consequently, any changes contemplated by the proposed amendment should consider an exception and allow mini-storage development on RMF land in cases where there are resource limitations. In the case of Los Osos, there are many available vacant RMF parcels ranging in size from 50'x125' infill lots to 8+ acre parcels.

No Takings Analysis

The proposed amendment would render all existing, legally established, ministorage facilities in the RMF category as legal non-conforming uses. In the event of a partial or total loss/destruction of an existing facility, under the current proposal, the improvements may not be allowed to be rebuilt. The amendment as proposed will

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likely reduce the value of existing facilities and could affect existing financing. Moreover, it may be difficult, if not impossible, to secure new financing for the acquisition of an existing mini-storage complex. Refinancing of an existing debt may also be frustrated accordingly. Retaining the Special Use status in Table O would obviate the need to perform a Takings Analysis.

Notice

An important question is, whether, or not, the owners of existing mini-storage facilities that would become legal non-conforming have been properly noticed of the proposed amendment. Given this is a limited class of properties it is feasible to accomplish. Individual owners may want to consult with their lenders, as applicable. In Los Osos, I am aware that five of the six existing mini-storage facilities would be affected.

Findings

Finding number 1 asserts that this amendment, if adopted, will lessen competition for land in the RMF category for non-residential uses. There is no substantial evidence to support this assertion. Additionally, Finding number 4 allows the continued operation of the existing mini-storage facilities as legal non-conforming uses but fails to consider the unintended consequences to the value of existing facilities.

Conclusion

Thank you for the opportunity to comment on the proposed amendment. In terms of a cost benefit analysis, I respectfully submit the costs of proceeding with the proposed amendment greatly outweigh the benefits that may accrue to the expansion of housing opportunities in the county.

If changes are contemplated, I recommend exceptions to allow mini-storage development in RMF category under certain circumstances. Elevating the level of processing may also be another way to critically review individual proposals. Finally, the issue of a regulatory taking and the related constitutional issues can be completely avoided by retaining mini-storage in an RMF category as a Special Use in Table O.

Sincerely,

Jeff Edwards

Jeff Edwards